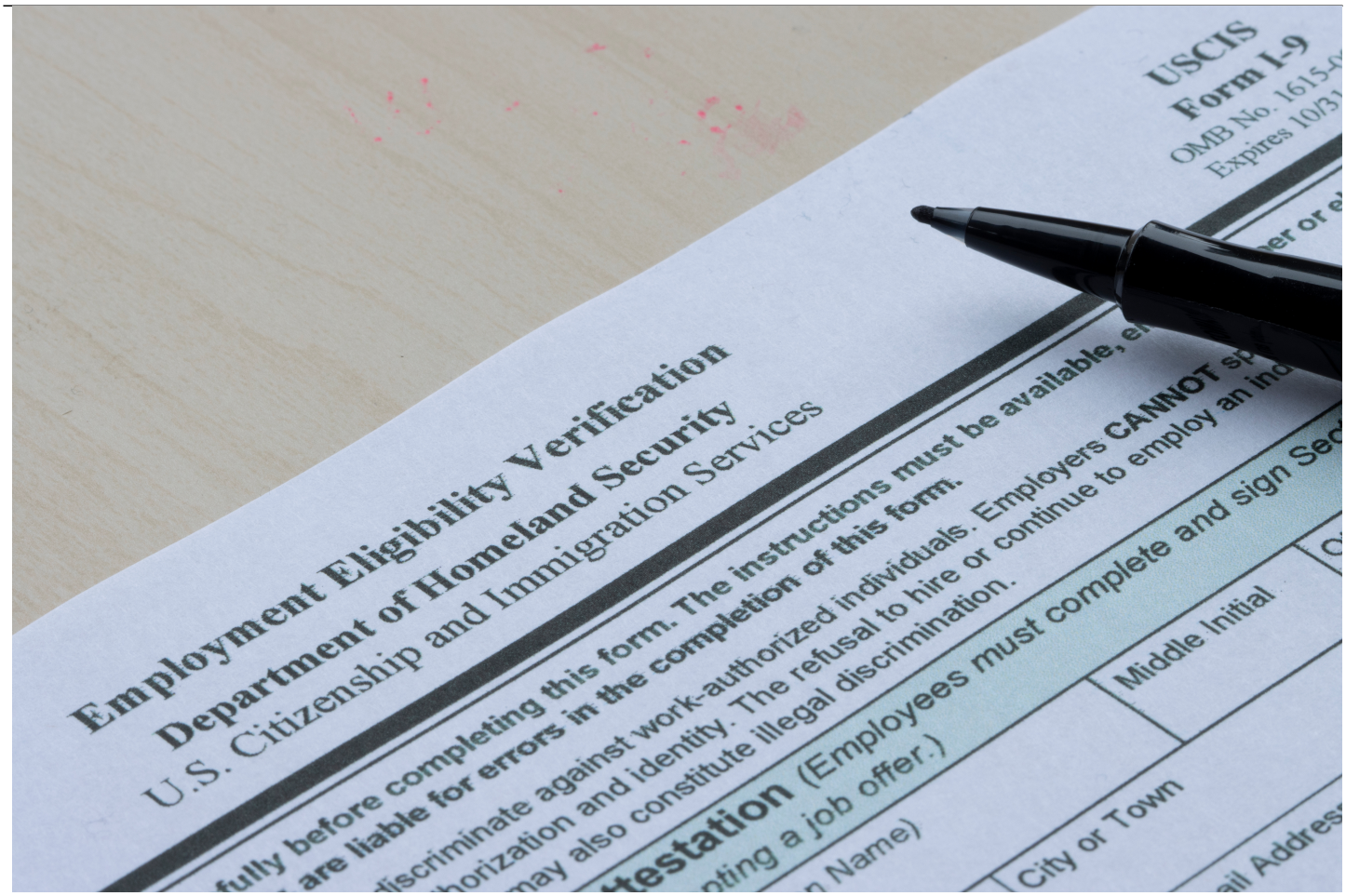


5 Things Employers Should Know to Prepare for Immigration Enforcement

Employment and Labor



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The new US administration is ramping up immigration enforcement. The number of I-9 audits and raids by the Immigration and Customs Enforcement agency (ICE) will likely increase.

5 things to know

ACC spoke with Amy L. Peck, who co-leads Jackson Lewis P.C.'s immigration group, about how organizations can prepare. Below are five considerations**.**

1. Do you have a Form I-9 for every employee?

- Form I-9 is a document that confirms a newly hired employee is legally eligible to work in the United States. During I-9 audits, ICE requires employers to produce copies of these documents.
- Employers should routinely conduct internal reviews to verify they have an I-9 for every employee.
- Don't assume the organization has this information readily available. Employers currently

have three business days to produce I-9 forms after receiving notification of an audit.

ACC Members: Register for the webcast, **I-9 Audits, Site Visits, and ICE Raids: What This Means for In-house Counsel**.

2. Resolve outstanding issues with I-9 Forms

- Have any employees provided information on their Form I-9 that doesn't match the US government's records? Are there other types of open issues that should have been resolved?
- Employers should reach out to employees to make sure outstanding issues are addressed.
- Part of the internal review should include checking that employees' work authorizations have not expired. "Start tracking work authorizations, if you haven't already done so," Peck said.
- Employers are required to recertify employment authorizations before they expire. If the work authorization has not been updated, the I-9 will on its face reflect that the employer is employing a person who is no longer authorized to work.
- Even technical errors can result in penalties for employers.

ACC Members-only Checklist:
When ICE Knocks

3. Don't let I-9 inspection notices go unnoticed

- I-9 inspection notices must be handled quickly. As noted above, employers only have three days to produce I-9 forms.
- Ensure human resources or other departments understand that requests for information must be taken care of urgently.
- "Don't let an I-9 audit notice inspection sit on a desk. Make sure it gets to the right people immediately," Peck said. "You have three days, so every minute counts."

ACC Members: Explore all the latest developments in **ACC's Navigating the New US Administration** resource center.

4. Board-level issues

- Immigration compliance is typically not a top priority concern for most boards of directors. However, this may change for many boards during the second Trump administration.
- "For some companies, there should be a board-level discussion about the resources needed to shore up compliance," Peck said.
- While any company can face an ICE audit or raid, companies located in so called "sanctuary" cities or states could face heightened scrutiny.
- Certain industries with higher numbers of foreign workers may also be at higher risk, such as the hospitality, tourism, food manufacturing, and agriculture industries.

ACC Members: ICE Raids and I-9 Audits: What You Need to Know

5. Reach out for help

- Employers should seek help from outside counsel when needed.
- If the employer is trying to do everything without outside help, they might miss something during its own internal review. Outside counsel can also help ensure that the employer remains compliant in the event of an audit.
- Communications may also be protected by the attorney-client privilege when using outside counsel.
- "Don't perform self-surgery," Peck said. "It's a good idea to have outside eyes on the company's compliance practices under attorney-client privilege."

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